

Subject: Fwd: BIDS - Economic Dev. Dept
From: Nate Kaplan <nate.kaplan@lacity.org>
Date: 05/24/2013 11:34 AM
To: Don Duckworth <duckworth.donald@gmail.com>

----- Forwarded message -----

From: **John Gregory** <john.gregory@lacity.org>
Date: Fri, May 17, 2013 at 10:07 AM
Subject: Fwd: BIDS - Economic Dev. Dept
To: Chad Molnar <Chad.Molnar@lacity.org>, Laura McLennan
<Laura.McLennan@lacity.org>, Nate Kaplan <Nate.Kaplan@lacity.org>

FYI

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From: **Laurie Hughes** <lhughes@gatewaytola.org>
Date: Fri, May 17, 2013 at 10:05 AM
Subject: BIDS - Economic Dev. Dept
To: [John.gregory@lacity.org](mailto:john.gregory@lacity.org)
Cc: Mike.bonin@lacity.org

John,

This ruling may be a good reason to leave the BIDs under the City Clerk's office for now.

Judge Orders Arts District BID to Dissolve

Some Fear Ruling Could Lead to Challenges of Other Business Improvement Districts

Previous Next



photo by Gary Leonard

Property Owners Win Legal Fight With BID

Yuval Bar-Zemer, a partner in the development firm Linear City, was involved in a lawsuit that challenged the legality of the Arts District Business Improvement District. He has been fighting the BID, which relies on assessments to area property owners, since 2011.





Posted: Thursday, May 16, 2013 9:39 am | Updated: 11:58 am, Thu May 16, 2013.

by Ryan Vaillancourt, Staff Writer | [3 comments](#)

DOWNTOWN LOS ANGELES - A Los Angeles Superior Court judge has ordered the Arts District Business Improvement District to dissolve, capping a [long feud](#) between the entity and a group of property owners. The BID has already halted its privately funded cleaning and safety program in the area.

The May 10 order from Judge Robert H. O'Brien is a victory for a group of Arts District property owners who argued in a lawsuit that the BID broke state law in its formation and therefore is invalid.

O'Brien's order centered on his finding that the BID spent tax dollars on economic development services that did not provide a special benefit to area property owners.

"Our claim was basically that the constituency in this district is very diverse, and to claim you're helping both industrial owners and loft owners and residents, there's no coherent way to have an agenda to help everyone," said developer Yuval Bar-Zemer, one of the property owners who brought the case against the city.

Estela Lopez, who has run the BID since its formation in 2006, predicted that its dissolution will lead to an uptick in homeless encampments, street trash, vandalism and minor crimes. Street cleaning and safety constitute the bulk of the BID's services.

What makes the ruling particularly important is that it could set a precedent for challenges to other, larger BIDs in Downtown. Currently the community has seven operating BIDs. All of them provide trash removal, safety officers on bicycles and economic development services.

Numerous BID executives are already on edge. The Downtown Center Business Improvement District, which covers 65 blocks, spends about 29% of its annual budget of \$5.8 million on economic development.

“The decision is wrong and will have a very dramatic impact on us in particular because we have the largest economic development function,” said Carol Schatz, president and CEO of the DCBID.

The Arts District BID, which has an annual budget of \$1.3 million — about 72% is spent on “clean and safe” programs — collected from area property owners, must disband by July 24. While the entity is already taking steps to dissolve, the city may appeal the decision, said Bill Carter, chief deputy city attorney.

“I suspect we will pursue an appeal, but that decision has not been made,” Carter said.

Question of Benefits

O’Brien’s order turns on the question of whether economic development efforts, such as distributing marketing materials to attract investment to the area or touring the neighborhood with real estate investors, constitute what are known as “special benefits.”

State law says that cities can only use assessment districts to pay for services that constitute special benefits for the people who pay the taxes. Services that benefit the general public, or those that function generally to raise property values, are not covered.

O’Brien agreed that the ADBID’s clean and safe program — that’s the graffiti-scrubbing street sweepers and security folks on bikes in blue shirts — represented a special benefit for the area. Its economic development efforts, however, did not, he ruled.

“The court looked at the BID’s activities and said you can’t charge property owners for what is essentially a PR campaign,” said Geoff Stover of the law firm Steinbrecher & Span, who represented the property owners in the complaint.

Stover and Bar-Zemer both said the case was not intended as a general attack on other business improvement districts. Rather, the complaint was directed at a specific BID they maintain did not provide special benefits commensurate with the fees paid by property owners.

Bar-Zemer, whose company Linear City developed the Toy Factory and Biscuit Company lofts as well as the apartment complex 7+Bridge, and Frank Novak of the furniture company Modernica, led a coalition of property owners who have been fighting the ADBID since 2011. They’re behind the orange “Rid the Bid” signs posted on several properties in the district.

When the BID proposed an expansion two years ago, it drew its new borders to lasso in the Linear City properties and other parcels, in effect boosting its assessment rolls. Representatives of those properties largely opposed inclusion in the BID, Bar-Zemer said.

To establish or renew a BID, property owners representing a majority of the land must vote in favor of the self-assessments. In May 2011, the Arts District BID secured signatures accounting for 50.66% of the land in the area (Lopez said they could have gone higher but stopped seeking signatures upon hitting the majority level).

According to the lawsuit, however, 17.5% of that land is owned by government entities including Metro and the L.A. DWP that voted for the BID. The property owners' suit argued that those government agencies are essentially wasting taxpayer money because their buildings don't benefit from the BID's services. O'Brien did not address the taxpayer waste claim, however, because his court did not have jurisdiction. It was instead transferred to a separate department for future trial.

For now, the city and other BIDs are left to ponder some unanswered questions about O'Brien's order. It is unclear whether O'Brien meant to bar special assessments for economic development in general, or only as it applies to the Arts District case.

"That's certainly one of the questions where we will be seeking clarity," Carter said.

In the meantime, the Arts District BID will cease to operate immediately and will stop collecting taxes. Lopez said that 19 people — 14 security guards, four maintenance staffers and one administrative employee — were laid off on Tuesday. Other CCEA employees will take pay cuts, she said.

The Central City East Association, which manages the Arts District and Industrial District BIDs, could opt to re-establish the ADBID. Or, another entity could seek to create a new BID. Such an effort would require a new management plan that identifies special and general benefits. It would also have to get majority approval from property owners.

Larger Impact

The Fashion District and Historic Downtown Los Angeles BIDs are both in the midst of renewal campaigns (all BIDs have five year terms and can be renewed in five-year increments). For now, both entities are proceeding cautiously. Kent Smith, executive director of the Fashion District BID, said his group is preparing its plan with extra attention to identifying special and general benefits.

Blair Besten, executive director of the HDLABID, said that the city has not advised her to proceed differently in light of the Arts District ruling. The group

still plans to make economic development a component of its services, she said.

At the heart of many conflicts with BIDs is a question of responsibility for what many consider to be basic public services. Why pay a BID for street cleaning when the city already does that with tax dollars, critics often ask?

“That’s an argument I’ve heard since I began working to establish the first BID in 1987,” Lopez said. “I tell people, you can hold onto that thought as long as you want, but it’s not going to change the situation: The city of L.A. is unable to give you the level of services that you want.”

Since January 2011, the Arts District BID has removed 636 tons of trash and its security personnel have responded to 50,567 incidents, according to the CCEA.

Under the ADBID structure, condo owners in the Toy Factory and Biscuit Company lofts were assessed about \$100-\$300 per year. Modernica was supposed to pay about \$11,000 this year. Under terms of the judge’s order, any taxes already paid to the BID will not be returned, but future assessments are canceled.

Laurie Hughes

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